

# FAYETTE LEGAL JOURNAL

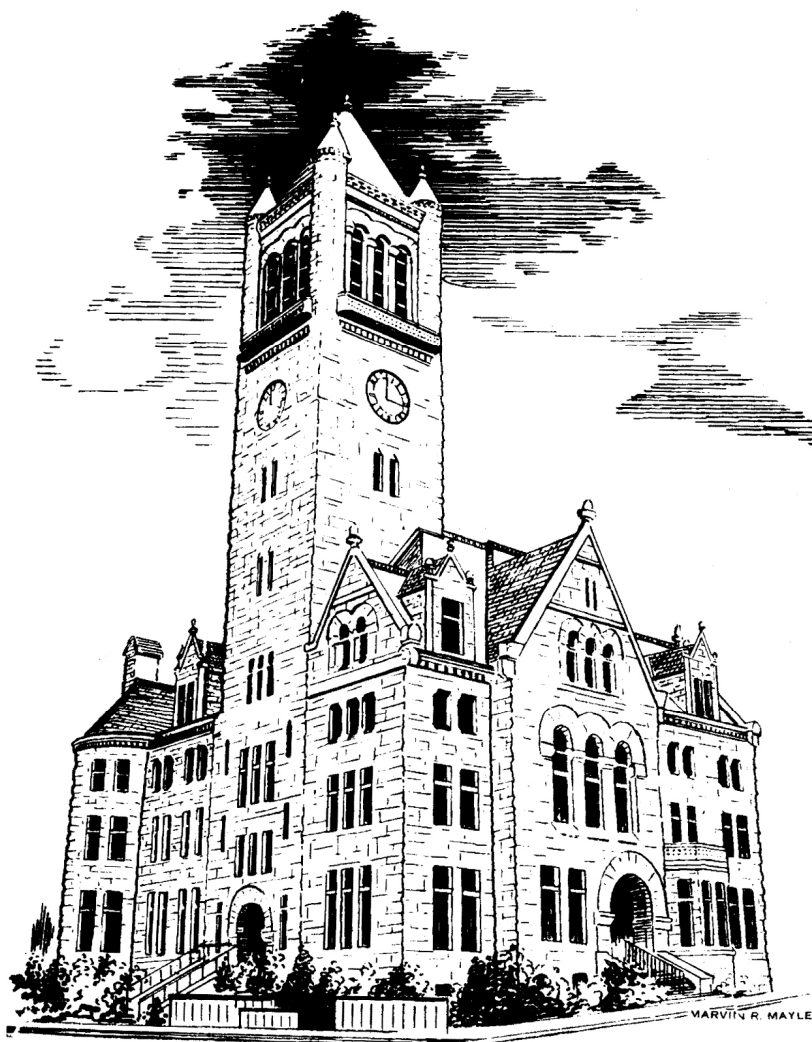
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## FAYETTE LEGAL JOURNAL

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## First Publication

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*Attorney:* Timothy J. Witt

## LEGAL NOTICES

### NONPROFIT ARTICLES OF INCORPORATION

Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988.

The name of the proposed nonprofit corporation is: Mechatronics Engineering and Technology Association.

The purpose for which it was organized is: The Mechatronics Engineering and Technology Association (META) is a professional organization that aims to promote the advancement of mechatronics engineering and technology in the United States.

### COMPLAINT IN MORTGAGE FORECLOSURE IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

Somerset Trust Company vs.  
Kevin Tristram Heald a/k/a Kevin T. Heald

No. 518 of 2025, G.D.

You have been named as the Defendant in a civil action instituted by Somerset Trust Company in this Court. The action has been instituted to foreclose on a Mortgage dated May 12, 2021, and recorded in the Recorder's Office of Fayette County, Pennsylvania on June 09, 2021, at Record Book Volume 3476, Page 306.

#### NOTICE

You are hereby notified that you are required to answer the Complaint filed in said action within twenty (20) days from the date of this publication and in default of an Answer, a final Order will be entered against you, whereby

you will be forever barred from asserting any lien, right, title, interest or claim to the described premises inconsistent with the interest or claim of the Plaintiff.

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defense or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim for relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
v.	:	
COREY LEE SICKLES,	:	No. 1079 of 2023
Appellant.	:	Honorable Linda R. Cordaro

OPINION

Filed pursuant to Pennsylvania Rule of Appellate Procedure 1925(a)

Linda R. Cordaro, J.

April 15, 2025

SUMMARY

Following a trial by jury that took place from August 5, 2024 to August 7, 2024, the Appellant, Corey Lee Sickles, was found guilty of rape of a child, statutory sexual assault, and corruption of minors. A sentencing hearing and an evidentiary hearing related to Appellant's designation as a Sexually Violent Predator (SVP) were scheduled for November 20, 2024.

However, on that date, the Commonwealth's witness from the Sex Offender Assessment Board (SOAB) did not appear, and the matters were continued to December 30, 2024, with the consent of Appellant's counsel. Thereafter, following the hearings on that date, this Court determined that the Appellant was a Sexually Violent Predator (SVP) and sentenced him to incarceration for twelve (12) to twenty-four (24) years.

The Appellant filed a timely post-sentence motion via counsel on January 8, 2025. This court denied that motion on January 22, 2025. The Appellant thereafter filed the within notice of appeal on February 14, 2025. {1}

BACKGROUND

This case involved the rape and sexual assault of a minor victim, A.S., by the Appellant, who is technically A.S.' nephew. A.S. testified during the first and second days of trial. Tr. of Criminal Jury Trial Proceedings, Day 1 of 3, 8/5/24, at 110-141; Day 2 of 3, 8/6/24, at 6-47.

{1} Following the imposition of sentence on December 30, 2024, Appellant had 30 days in which to file notice of appeal to the Superior Court. Nine (9) days elapsed before Appellant filed a post-sentence motion on January 8, 2025 and the time for appeal was tolled until the denial of the motion on January 22, 2025. Another twenty-three (23) days then elapsed before Appellant filed notice of appeal on February 14, 2025. Appellant's notice of appeal therefore was filed at the thirty-two (32) day mark, making this appeal facially untimely.

Her testimony described that after midnight on December 18, 2022, she encountered the Appellant in the bathroom by her bedroom in the home she shared with her father. She described that the Appellant spun her around by her hips, lifted her onto the sink, forced her pants and underpants down, and penetrated her with his penis. She could not say whether he ejaculated, and, after 10-15 minutes, the Appellant withdrew, zipped up his pants, and threatened that if she told anyone, he would hurt her badly.

Among the testimonies of multiple other witnesses at trial were those of a trained sexual assault nurse examiner, Molly Biega, and of Joseph Kukosky, whom this court recognized as an expert in DNA analysis. Ms. Biega testified as to her medical examination of A.S. following the incident. Mr. Kukosky testified as to his analysis of DNA samples taken from A.S. and the Appellant and related findings from a cutting of the crotch of A.S.' underwear.

On the second day of trial, Molly Biega testified that her examination of A.S. revealed a bruise on her left knee and a circular abrasion on her upper back. N.T., 8/6/24, at 64. She also testified as to her report stating there were no findings of injury, only secretions. Id. at 70-71. Ms. Biega explained that it is not abnormal for even a girl as young as A.S. not to show bruising or injury despite penetration. Id. at 71. She further explained that the vaginal area heals very quickly and that a lack of lacerations or abrasions in the area does not mean that nothing happened. Id. at 73-74.

On that same day of trial, Joseph Kukosky testified as to his testing and analysis of samples taken from A.S. and the Appellant. He explained that, although results typically are not described as a "match" to a person's DNA, it is possible to give weight to the findings in that there is a stated probability that a particular person's DNA is present. Id. at 88, 98-99. Specifically, Mr. Kukosky indicated that he identified a DNA profile with a mix of two contributors from a cutting of the crotch area of A.S.' underwear. Id. at 87-88. He testified that it was "6.8 octillion times more likely that [the Appellant's DNA] is in that mixture profile along with [A.S.] as opposed to not being there. As opposed to it being somebody else or an unrelated individual." Id. at 101. The forensic report was provided to the jury during deliberation. {2}

### ISSUES PRESENTED

The Appellant's Concise Statement presents nine (9) issues. The first six (6) involve challenges to the sufficiency of evidence and weight of evidence at trial. The Statement includes an identical list of disputed evidence for each crime charged with respect to both sufficiency and weight.

A challenge to the sufficiency of evidence refers to whether evidence was presented to establish each material element of the crimes charged and that the accused was the individual responsible. The weight of evidence refers to the relative weight that the factfinder gives to the evidence presented and whether the verdict departs so far from what the evidence shows that it shocks one's sense of justice. The challenges to the sufficiency of evidence will be considered first, since, if one or more elements of the convicted crimes were not established, there is no need to also consider the weight of the evidence as to that conviction.

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{2} As discussed and agreed upon at sidebar, any information on the report related to the Appellant's submission of DNA in relation to a separate offense was redacted. Id. at 91-93.



### Sufficiency of Evidence

A challenge to the sufficiency of evidence may be made on appeal. Pa.R.Crim.P. 606(A)(7). However, to sustain such a challenge, which is a question of law, an appellant must show that the Commonwealth failed to produce evidence that establishes each material element of the crime charged, and the commission thereof by the accused, beyond a reasonable doubt. *Commonwealth v. Widmer*, 744 A.2d 745,751 (Pa. 2000); *Commonwealth v. Karkaria*, 625 A.2d 1167, 1170 (Pa. 1993). The standard is "whether, viewing all the evidence in the light most favorable to the Commonwealth as verdict winner, a jury could find every element of the crime beyond a reasonable doubt." *Commonwealth v. Bryant*, 574 A.2d 590,592 (Pa. 1990). The deference to the credibility determinations and fact-finding at the trial court level is such that a conviction will be unable to stand only if the "entire body of evidence introduced at trial which furnished the basis for an appellant's conviction is so deficient that it does not reasonably support a finding of guilt beyond a reasonable doubt, as a matter of law." *In Interest of J.B.*, 189 A.3d 390, 408 (Pa. 2018) (internal citation omitted).

The Statement asserts that there was not sufficient evidence to support each element of each crime charged: rape of a child, statutory sexual assault, and corruption of minors. The Statement contends that evidence for all of these crimes was insufficient because (1) the victim's testimony was uncorroborated, contradictory, inconclusive and speculative as to penetration; (2) the Appellant's DNA was not found in the victim's vagina nor was there evidence of bruising or penetration by the Appellant; (3) the testimony of the sexual assault nurse examiner did not establish penetration; and (4) the DNA found as a contributing factor was outside of the victim's underwear 3 days after the alleged incident.

As to the crimes charged, the Appellant was convicted under 18 Pa.C.S.A. § 3121 (c), which states that the crime of rape of a child is committed when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

The Appellant also was convicted under 18 Pa.C.S.A. § 3122.1(a)(2), which states that the crime of statutory sexual assault occurs when a person engages in sexual intercourse with a complainant who is under the age of 16 years while the perpetrator is at least 8 years older but less than 11 years older than the complainant.

The Appellant also was convicted under 18 Pa.C.S.A. § 6301(a)(1)(ii), which states that the crime of corruption of minors occurs when a person at least 18 years of age, who, by any course of conduct related to sexual offenses, corrupts or tends to corrupt the morals of any minor under the age of 18.

The Appellant does not challenge any evidence as to either his age or the victim's age at the time of the incident.

These issues related to sufficiency of evidence are without merit. First, the testimony of the victim, alone, is sufficient proof upon which to find a defendant guilty if the jury believes the testimony. *Commonwealth v. Cramer*, 195 A.3d 594, 602 (Pa. Super. 2018). The testimony need not be supported by other evidence, and a jury may find a defendant guilty if convinced by the testimony of the victim beyond a reasonable doubt.

Here, the jury was instructed accordingly. Tr. of Criminal Jury Trial Proceedings, Day 3 of 3, 8/7 /24, at 20-21. Therefore, if the jury believed A.S.' testimony that there was penetration and thus, sexual intercourse, then that alone was sufficient for conviction.

In addition, despite the Appellant's claims, there is no indication that A.S.' testimony was contradictory, speculative, or inconclusive as to penetration. On the contrary, A.S. testified that the Appellant felt around with his finger for the opening to her vagina before inserting his penis. N.T., 8/5/24, at 132-133. She also stated that the insertion continued for about 10-15 minutes. Id. at 133. Again, if believed by the jury, this testimony alone was sufficient to establish there was penetration, and that sexual intercourse did occur between the Appellant and A.S.

Therefore, the convictions of rape of a child and statutory sexual assault were supported by sufficient evidence. Furthermore, either or both sexual offense convictions also supported that the Appellant was guilty of corruption of minors. For these reasons, there is no merit to a challenge to the sufficiency of evidence in this case.

### Weight of Evidence

An appeal arising from a challenge to the weight of evidence can succeed only by showing that the trial court "acted capriciously or palpably abused its discretion." *Choma v. Iyer*, 871 A.2d 238, 243 (Pa. Super. 2005). A trial court may award relief only when a jury's verdict "is so contrary to the evidence as to shock one's sense of justice." *Commonwealth v. Jacoby*, 170 A.3d 1065, 1080 (Pa. 2017).

As already discussed in relation to the sufficiency of the evidence, A.S.' testimony alone was sufficient for a jury to find the Appellant guilty of the crimes as charged. "At trial, the jury was the ultimate fact-finder and the sole arbiter of the credibility of each of the witnesses." Id. There is no indication that the jury's verdict here was so contrary to the evidence as to shock one's sense of justice. For these reasons, there was no abuse of discretion and therefore, no merit to a challenge to the weight of evidence in this case.

### Issues Related to the Commonwealth's Closing Argument

The Appellant's seventh issue challenges that the assistant district attorney misrepresented testimony in his closing argument. Specifically, he asserts that the prosecution characterized the results of the DNA analysis as conclusively belonging to him, which made it so the jury was unable to weigh the evidence fairly and caused prejudice. In his eighth issue, the Appellant asserts that this Court erred when it failed to administer curative instruction to the jury to mitigate this misrepresentation.

There are three reasons the allegation of misrepresentation has no merit. First, the testimony of the DNA analysis expert, Mr. Kukosky, was that it was eight (8) octillion times more likely that the two contributors to the DNA found on A.S.' underwear were from her and from the Appellant than if it were from A.S. and someone else. Mr. Kukosky did not characterize the results as showing a "match" to the Appellant, conclusively or otherwise, but the substance of his testimony clearly was that the probability that the Appellant was not the contributor to the DNA sample was astronomically small

and so remote that it easily meets the reasonable doubt standard against which the jury was charged to assess the Appellant's guilt. Therefore, even if there was representation by the prosecution that the DNA results were a conclusive match, this did not so seriously misstate the testimony or evidence such that the jury could not reach a true verdict or that the Appellant was prejudiced by it.

Second, as this Court indicated to the Appellant's trial counsel at the time, the jury already had been instructed that they were bound only by their recollection of the evidence. Tr. Criminal Jury Trial Proceedings, Day 3 of 3, 8/7/24, at 6, 9.

Finally, the members of the jury also were instructed that they could consider inferences that counsel asked them to draw when supported by the evidence. Id. at 6. Mr. Kukosky's testimony established a foundation from which the jury could infer the DNA found on the underwear did belong to the Appellant. "The law presumes that the jury will follow the instructions of the court." *Commonwealth v. Philistin*, 53 A.3d 1, 18 (Pa. 2012) (quoting *Commonwealth v. Miller*, 819 A.2d 504, 513 (Pa. 2002)).

There is no indication that the assistant district attorney's representations had the unavoidable effect of compromising the jury's neutrality so as to preclude a true verdict. For these reasons, the Appellant's seventh issue has no merit.

Relatedly, the eighth issue also lacks merit. On appeal, the charge given to the jury "is considered adequate unless the jury was palpably misled ... or there is an omission which is tantamount to fundamental error." *Commonwealth v. Sandusky*, 77 A.3d 663,667 (Pa. Super. 2013). Here, the jury had been given relevant and proper instructions, which it is presumed they followed, and this Court's decision not to include further "curative" instruction was not an error or abuse of discretion.

#### Issue Related to Appellant's Designation as a Sexually Violent Predator

The Appellant's ninth and final issue asserts that this Court erred in finding him to be a sexually violent predator (SVP) because the Commonwealth failed to meet its burden to establish this by clear and convincing evidence. The Appellant's Statement recites evidence that he alleges the evaluator, Tracy Boyle, either improperly relied upon, did not consider, and/or evidence that did not support her conclusion(s).

The statutorily established procedure and factors for consideration of an SVP assessment are set forth in 42 Pa.C.S.A. § 9799.24(b). The factors that must be considered include the facts of the current offense, prior offense history, characteristics of the individual, and other factors related to evaluating the risk of the defendant reoffending. The evidence presented is the testimony of the evaluator, who may consider facts and information from a variety of records and documents if those are typically relied upon in SOAB evaluations. *Commonwealth v. Aumick*, 297 A.3d 770, 781 (Pa. Super. 2023) (en banc) (quoting *Commonwealth v. Prendes*, 97 A.3d 337, 360-61 (Pa. Super. 2014), overruled on other grounds by *Commonwealth v. Hvizda*, 116 A.3d 1103 (Pa. 2015)).

The Appellant's position here has no merit. First, an SOAB evaluator is not required to limit the analysis only to facts admitted into evidence or determined by a trier of fact. Id. at 782. The court considers the facts and data supporting the evaluator's expert opin-

ion only as an explanation of the basis for that opinion. *Id.* (citing Pa.RE. 705). It is the expert's opinion, rendered to a reasonable degree of professional certainty, that is substantive evidence. *Id.* The burden to explore the facts and assumptions underlying the expert witness testimony falls to opposing counsel's cross-examination, which is where counsel may expose and explore weaknesses in the underpinnings of the expert's opinion. *Id.* at 781. See also *Commonwealth v. Fuentes*, 991 A.2d 935,945 (Pa. Super. 2010) (declining to reweigh the evidence presented at the SVP hearing and finding that the appellant was free to introduce evidence at the hearing to challenge the conclusions of the Commonwealth's expert and/or to argue that those conclusions should be discounted or ignored).

Second, there is no statutory requirement that every factor set forth in 42 Pa.C.S.A. § 9799.24(b) be present in order to support an SVP designation, nor even that a particular number of factors be present. *Commonwealth v. Brooks*, 7 A.3d 852,863 (Pa. Super. 2010). The requirement is only that the factors be considered.

Third, the Commonwealth is not required to show that any specific factor under Section 9799.24(b) is present or absent, nor even to provide a clinical diagnosis by a licensed psychiatrist or psychologist; the opinion of a qualified criminal justice expert (i.e., a duly appointed member of the SOAB) is sufficient. *Id.*; *Commonwealth v. Conklin*, 897 A.2d 1168, 1178 (Pa. 2006).

Finally, the conviction of the offense of corruption of minors, without more, would be sufficient to support an SVP classification if the Commonwealth's evidence demonstrates the defendant has a mental abnormality or disorder rendering the person more likely to engage in predatory sexually violent offenses. *Aumick*, 297 A.3d at 780 (citing *Commonwealth v. Feucht*, 955 A.2d 377 (Pa. Super. 2008)). Here, the Appellant had been convicted by a jury of the crime of corruption of minors. Ms. Boyle testified as to her conclusion that the Appellant displayed criteria sufficiently similar to those in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition to consider him as having an Antisocial Personality Disorder.

Therefore, if deemed credible by this Court, this would be sufficient to establish that the Appellant should be classified as an SVP.

There is no indication that the evidence presented at the hearing failed to meet the clear and convincing standard required for a finding that the Appellant should be designated a Sexually Violent Predator. This issue therefore has no merit.

### CONCLUSION

The Appellant presents several issues related to his conviction of sexual crimes and his designation as a Sexually Violent Predator. However, as discussed, none have merit and for the reasons presented, this Court respectfully requests that its judgment of sentence be affirmed.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Clerk of Courts